

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DEBRA SHIELDS,

Plaintiff,

vs.

Case No. 12-14748
Hon. Lawrence P. Zatkoff

BOARD OF REGENTS OF
THE UNIVERSITY OF MICHIGAN,

Defendant.

ORDER OF DISMISSAL WITH PREJUDICE

On May 24, 2013, shortly after the close of the discovery period in this case, Plaintiff filed an application for order of dismissal without prejudice. Defendant filed a response in opposition to Plaintiff's application. Plaintiff is not entitled to dismissal of her action without prejudice at this stage of the case, absent Defendant's acquiescence, *see* Fed.R.Civ.P. 41(a)(1), or a dismissal upon order of the Court (with or without prejudice, at the Court's discretion), *see* Fed.R.Civ.P. 41(a)(2).

Shortly after Plaintiff filed her application for order of dismissal without prejudice, Defendant filed a timely Motion to Dismiss and a timely Motion for Summary Judgment, both of which sought dismissal of Plaintiff's action with prejudice. After Plaintiff failed to timely respond to either of Defendant's Motions, the Court issued Plaintiff an Order to Show Cause, wherein the Court ordered "Plaintiff to SHOW CAUSE, in writing, on or before August 5, 2013, why this case should not be dismissed for failure to prosecute." The Court also ordered that Plaintiff was required "to file a separate response to each Motion (and separate from the response to the Order to Show Cause) no later than August 5, 2013." Finally, the Court stated that, "[i]f Plaintiff's response(s) to

the Motion to Dismiss and/or Motion for Summary Judgment is (are) not filed by August 5, 2013, the Court will consider Plaintiff's failure to prosecute to have prejudiced Defendant, and the case against Defendant will be dismissed with prejudice."

Plaintiff has not filed a response to the Court's Order to Show Cause, nor has Plaintiff filed a response to Defendant's Motion to Dismiss or Defendant's Motion for Summary Judgment. In fact, Plaintiff has filed nothing in the ten weeks since filing her application to dismiss this matter without prejudice.

In light of the foregoing facts, namely that: (1) Plaintiff did not ask for dismissal without prejudice until the discovery period had closed; (2) Plaintiff failed to respond to either of Defendant's motions; (3) Plaintiff failed to respond to the Court's Order to Show Cause; and (4) in the Order to Show Cause, the Court warned Plaintiff that her case would be dismissed with prejudice if she did not file a response to either or both of Defendant's motions; the Court finds that the interests of justice dictate that Plaintiff's cause of action must be dismissed with prejudice.

Accordingly, the Court hereby ORDERS that Plaintiff's cause of action is DISMISSED WITH PREJUDICE.

IT IS SO ORDERED.

S/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: August 12, 2013